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**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Docket Number (Optional):

2002-015/PU02 0200US1

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Date: **October 19, 2009**Signature: Typed or printed name: **KATHLEEN KOPPEN**

Application Number:

**10/674,780**

Filed:

**September 30, 2003**

First Named Inventor:

**Northcutt**

Art Unit:

**2618**

Examiner:

**CHARLES C. CHOW**

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor☐ assignee of record of the entire interest.See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)☒ attorney or agent of recordRegistration Number: **47,642**☐ attorney or agent acting under 37 CFR 1.34.

Registration Number if acting under 37 CFR 1.34 \_\_\_\_\_

Signature

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**October 19, 2009**

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below\*.

☐ \*Total of \_\_\_\_\_ form(s) is/are submitted.

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 809. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. <sup>1</sup> Applicant's unique citation designation number (optional). <sup>2</sup> Applicant is to place a check mark here if English language Translation is attached. This collection of information is required by 37 CFR 1.98. This information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of  
**Northcutt et al.**

Serial No.: 10/674,780

Filed: September 30, 2003

For: **A Method and Apparatus of  
Synchronizing Complementary Multi-Media  
Effects in a Wireless Communication Device**

Docket No: 2002-015

PATENT PENDING

Examiner: Mr. Charles C. Chow

Group Art Unit: 2618

Confirmation No.: 4445

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October 19, 2009

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Kathleen Koppen

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**PRE-APPEAL BRIEF**

Applicant submits the following remarks in support of the Pre-Appeal Brief Request for Review being filed concurrently with a Notice of Appeal. Claims 1-10, 22-30, and 41-57 are currently pending. All independent claims 1, 22, 41, and 57 stand finally rejected as being obvious over Hayashi (GB 2,380,908) in view of Adams (U.S. Pat. App. Pub. No. 2006/0259862) and in further view of Dowling (U.S. Pat. App. Pub. No. 2002/0038157). However, none of the references teaches or suggests, alone or in combination, every element of the independent claims.

Claim 1 is directed to a mobile communications device that activates and deactivates a complementary multi-media effect in time with the playback of an audio file. Particularly, a processor at the device calculates synchronizing information based on an analysis of the audio

contents of an audio file. The processor then uses this calculated synchronizing information to generate a pattern in which to activate/deactivate the complementary multi-media effect synchronously with the playback of the audio. For convenience, claim 1 follows.

1. A mobile communications device comprising:
  - a wireless transceiver;
  - memory to store an audio file; and
  - a processor configured to:
    - analyze the audio file;
    - calculate synchronizing information based on the analysis of the audio file;
    - and
    - generate a pattern in which to render a complementary multi-media effect synchronously with the playback of the audio file based on the calculated synchronizing information.

Hayashi, discloses activating/deactivating a vibrator mechanism and/or Light Emitting Diodes (LEDs) on a mobile phone in accordance with play data (i.e., melodic data such as tone frequencies and instrument types, and a synchronization designation) downloaded from a server. *Hayashi*, pg. 5, ll. 20-22. Adams discloses a computer program that determines an adjusted tempo for the playback of an audio file based, in part, on reference markers manually placed in an audio file by a user. *Adams*, p. 3, ¶¶[0031-0032]; p. 4, ¶¶[0040-0043]. However, as acknowledged in the Office Action, neither Hayashi nor Adams teaches or suggests, alone or in combination, "a processor configured to... generate a pattern in which to render a complementary multi-media effect synchronously with the playback of [an] audio file based on ... calculated synchronizing information," as claimed in claim 1. For this teaching, the Office Action relies on Dowling.

Dowling discloses a method of synchronizing lighting systems to an audio file. However, Dowling does not teach or suggest a processor that generates a synchronizing pattern based on synchronizing information that it calculated, as claimed. In contrast, Dowling teaches that a user manually authors the lighting program that is used to control the activation/de-activation of the lighting. According to Dowling, "a user may select from among a set of predetermined 'stock' effects at step 210. The stock effects function as discrete

elements or building blocks useful for assembling a sequence." *Dowling*, p. 3, ¶¶0037]. Thus, the user in *Dowling* indicates when the selected effect should begin and end, and selects one or more lighting units to execute the selected effect. *Dowling*, pp. 3-4, ¶¶0038-0039].

Manually defining a lighting sequence and which lights should/should not be activated/deactivated necessarily means at least two things. First, it means that *Dowling* does not teach or suggest a processor that calculates synchronization information based on an analysis of an audio file. Second, it means that *Dowling* does not teach or suggest a processor that generates a synchronization pattern based on such calculated synchronization information. Indeed, *Dowling* cannot teach or suggest generating a synchronization pattern based on calculations that *Dowling* never performs.

The Office Action alleges that *Adams* calculates synchronization information that could be used by *Dowling* to generate the claimed synchronization pattern. However, this assertion mischaracterizes *Adams*. In *Adams*, the user manually places "reference markers" along a displayed graphical indication of an audio signal to indicate the beginning (and/or the end) of a given audio segment. Once defined, the program determines an adjusted tempo for the audio segment based on the length (in time) of the segment and the number of beats in the segment. *Adams*, p. 3, ¶¶0031-0032; p. 4, ¶¶0040-0043; Figure 1.

Although *Adams* determines an adjusted tempo, it is not used for "synchronization" as the term "synchronization" is used in claim 1. "Synchronization" in *Adams* means ensuring that both the user-identified audio segment and its corresponding video segment begin and end at the same time. Once rendering begins in *Adams*, both the audio and video segments playback independently of each other at their own, respective "tempos" until they end. There is no correlation between the audio and video in *Adams* that is "calculated." That is, *Adams* does not control the activation/deactivation of the video (or of anything else) based on the so-called "calculated tempo." *Adams* simply changes the tempo of the audio in the audio segment by

making the audio faster or slower, and starts both the audio and video at the same time. Because of the altered tempo, the audio segment should end at the same time as the video segment.

Contrast this with the claimed invention, which generates a synchronization pattern for a multimedia effect, such as a flashing light, such that the activation/deactivation of the multimedia effects are synchronized with the audio. With the claimed invention, the calculated synchronization pattern is used to define when the multimedia effects are activated/deactivated. Indeed, the two concepts are not the same, and there is no information calculated by Adams that would allow Dowling to perform such a function.

Therefore, none of the references alone teaches or suggests, "a processor configured to... generate a pattern in which to render a complementary multi-media effect synchronously with the playback of [an] audio file based on ... calculated synchronizing information," as claimed in claim 1. And because none of the references alone teaches or suggests this processor function, their combination also fails to teach or suggest this element of claim 1. Therefore, none of the references teaches or suggests, alone or in combination, claim 1 or any of its dependent claims.

Claim 22 is directed to a method of synchronizing multi-media effects with an audio file stored in memory of a mobile communications device.

22. A method of synchronizing multi-media effects with an audio file in a mobile communications device, the method comprising:  
analyzing an audio file stored in memory of the mobile communications device;  
calculating synchronizing information based on the analysis of the audio file;  
and  
generating a pattern in which to render a complementary multi-media effect in the mobile communications device synchronously with the playback of the audio file based on the calculated synchronizing information.

Claim 41 is directed to a method of synchronizing one or more complementary multi-media effects with an audio file stored in memory.

41. A method of synchronizing one or more complementary multi-media effects with an audio file in a mobile communications device, the method comprising:  
selecting a sample from an audio file stored in memory in a mobile communications device;  
analyzing said sample to calculate synchronizing information; and  
generating a pattern in which to render one or more complementary multi-media effects in the mobile communications device synchronously with the playback of the audio file based on the calculated synchronizing information.

Claim 57 is directed to a circuit.

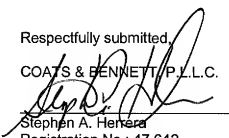
57. A circuit comprising:  
a microprocessor programmed to:  
analyze an audio stream;  
calculate synchronizing information based on the analysis of the audio stream;  
and  
generate a pattern in which to render one or more complementary multi-media effects synchronously with the audio stream during playback of the audio stream based on the calculated synchronization information.

Each independent claim 22, 41, and 57 stands rejected as being obvious over Hayashi in view of Adams and in further view Dowling for reasons substantially similar to those stated above for claim 1. However, each of these independent claims contains language that is similar to the language stated above for claim 1. Therefore, for reasons similar to those stated above, none of the cited references teaches or suggests, alone or in combination, any of claims 22, 41, and 57, or any of their respective dependent claims.

In light of the foregoing remarks, all pending claims define patentable subject matter over the references. Therefore, Applicant respectfully requests that the Panel overturn all rejections.

Respectfully submitted,

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